

ORIGINAL

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

2011 NOV 28 PM 12:10

DEPUTY CLERK

NT

WAYNE H. NORMAN

PLAINTIFF,

3-11CV3275-M
CIVIL ACTION NO. _____

JURY DEMAND

ALLIANCE FUNDING, LLC

DEFENDANT,

JURISDICTION

1. This action arises out of the Defendants' repeated violation of the Fair Debt Collection Practices Act, 15 U.S.C. section 1692, et seq. ("FDCPA"), and the invasion of the

Plaintiff's personal privacy by the Defendant and its agents in their illegal efforts to collect a consumer debt.

2. Supplemental jurisdiction exists pursuant to 28 U.S.C. section 1367

3. Venue is proper in this District pursuant to 28 U.S.C. section 1391(b), in that the Defendants transact business in this District and a substantial portion of the acts giving rise to this

action occurred in this District.

PARTIES

4. The Plaintiff, Wayne H. Norman ("Plaintiff"), is an adult residing in Dallas County, and is a "consumer" as the term is defined by 15 U.S.C. section 1692a(3).

5. Defendant Alliance Funding, LLC ("AF"), is a Florida business entity with an address of 5718 W. Sunrise Blvd., Plantation, Fl. 33313, operating as a collection agency

and is a "debt collector" as the term is defined by 15 U.S.C. section 1692a(6).

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. THE DEBT

6. The Plaintiff incurred a financial obligation (the "Debt") to Great Sky Finance, LLC (the "Creditor").

7. The debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a "debt" under

15 U.S.C. section 1692a(5).

8. The debt was purchased, assigned or transferred to Alliance for collection, or Alliance was employed by the Creditor to collect the Debt.

9. The Defendant attempted to collect the Debt and, as such, engaged in "communications" as defined in 15 U.S.C. section 1692a(2).

B.ALLIANCE ENGAGES IN HARASSMENT AND ABUSIVE TACTICS

10.The Defendant repeatedly called the Plaintiff's cellular phone line in an attempt to collect the Debt with the intent to annoy and harass.

11.The Defendant repeatedly called leaving pre-recorded automated messages for the Plaintiff to call ""1-800-772-2730".

12.The Defendant called Plaintiff again on May 23, 2011, in which Plaintiff asked the collection agent "Shirley" to mail alleged debt information to home address and cease and

desist calling cellular phone.

13.The Defendant called several times after cease and desist request leaving pre-recorded automated message for the Plaintiff to call "1-800-772-2730".

14.The Defendant failed to inform the Plaintiff of his rights under the state and federal laws by written correspondence within (5) days after initial communication, including the right

to dispute the Debt.

15.The Defendant failed to properly validated the alleged "debt" and continued collection efforts during the debt validation period.

16.The Defendant failed to cease collection efforts after Plaintiff emailed Todd F. Krause, Collections Supervisor for Alliance informing him to cease and desist communications via email,

cell, and mail on 6/23/2011.

17. The Defendant continued harassing collection efforts approximately seven (7) more times after being told via email communication to cease and desist.

C. PLAINTIFF SUFFERED ACTUAL DAMAGES

18. As a direct consequence of the Defendants' acts, practices and conduct, the Plaintiff suffered from anger, emotional distress, and frustration.

COUNT I

VIOLATIONS OF THE FDCPA 15 U.S.C. SECTION 1692, ET SEQ.

19. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

20. The Defendants' conduct violated 15 U.S.C. section 1692d(5) in that Defendant caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversation, with the

intent to annoy and harass.

21. The Defendants' conduct violated 15 U.S.C. section 1692e(10) in that Defendant employed false and deceptive means to collect a debt.

22. The Defendants' conduct violated 15 U.S.C. section 1692g(a)(2) in that Defendant failed to send the Plaintiff notice stating the name of the original creditor to whom the

Debt was owed.

23. The Defendants' conduct violated 15 U.S.C. section 1692g(a)(3) in that Defendant failed to send the Plaintiff a validation notice stating the Plaintiff's right to dispute the

Debt within thirty days.

24. The Defendants' conduct violated 15 U.S.C. section 1692(a)(4) in that Defendant failed to send the Plaintiff a validation notice informing the Plaintiff of a right to have

verification and judgment mailed to the Plaintiff.

25. The Defendants' conduct violated 15 U.S.C. section 1692g(a)(5) in that Defendant failed to send the Plaintiff a validation notice containing the name and address of the original

creditor.

26. The Defendants' conduct violated 15 U.S.C. section 1692c(c) in that Defendant continued to send Plaintiff collection notices after the Plaintiff notified Defendant orally and in

writing to cease and desist communication.

27. The Plaintiff is entitled to damages as a result of Defendant's violations.

COUNT II

VIOLATIONS OF THE TEXAS DEBT COLLECTION PRACTICE ACT

TEX. FIN. CODE ANN. SECTION 392, ET AL.

28. Plaintiff incorporates by references all of the above paragraphs of this Complaint as though fully stated herein.

29. The Plaintiff is a "consumer" as defined by Tex. Fin. Code Ann. section 392.001(1).

30. The Defendant is a "debt collector" and a "third party debt collector" as defined by Tex. Fin. Code Ann. section 392.001(6) and (7).

31. The Defendant caused a telephone to ring repeatedly, with the intent to annoy or abuse Plaintiff, in violation of Tex. Fin. Code Ann. section 392.302(4).

32. The Defendant called the Plaintiff and failed to identify the name of the debt collection agency or the individual debt collector, with the intent to annoy and harass,

in violation of Tex. Fin. Code Ann. section 392.302(2).

33. The Defendant failed to clearly disclose the name of the debt collector or debt collection agency when making a demand for money from the Plaintiff, in violation

of Tex. Fin. Code Ann. section 392.304(4).

34. The Plaintiff is entitled to injunctive relief and actual damages pursuant to Tex. Fin. Code Ann. section 392.403(a)(1) and (2) and remedies under the Tex. Bus. & Comm.

Code section 17.62 pursuant to Tex. Fin. Code Ann. section 392.404(a).

COUNT III

VIOLATION OF THE TELEPHONE CONSUMER PROTECTION ACT

47 U.S.C. SECTION 227, ET SEQ.

35. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

36. Without prior consent the Defendant contacted Plaintiff by means of automatic telephone calls or prerecorded messages at a cellular telephone or pager in violation of

47 U.S.C. section 227(b)(1)(A)(iii).

37. The foregoing acts and omissions of the Defendant constitute numerous and multiple violations of the Telephone Consumer Protection Act, including every one of the

above cited provisions.

38. The Plaintiff is entitled to damages as a result of the Defendants' violation.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendant:

- a) Actual damages pursuant to 15 U.S.C. section 1692k(a)(1);
- b) Statutory damages of \$1,000 for each violation pursuant to 15 U.S.C. section 1692k(a)(2)(A);
- c) Injunctive relief pursuant to Tex. Fin. Code Ann. section 392.403(a)(1);

- d) Actual damages pursuant to Tex. Fin. Code Ann. section 392.403(a)(2);
- e) Remedies under Tex. Bus. & Comm. Code section 17.62 pursuant to Tex. Fin. Code Ann. section 392.404(a);
- f) Statutory damages pursuant to 47 U.S.C. section 227(b)(3)(B) & (C)
- g) Actual damages from the Defendant for the emotional distress suffered as a result of the intentional, reckless, and/or negligent FDCPA violations;
- h) Such other and further relief as may be just and proper.

Respectfully Submitted,



Wayne H. Norman

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Arlington, Texas 76016

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JS 44 (TXND Rev. 2/10)

ORIGINAL

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

WAYNE H. NORMAN
DALLAS

(b) County of Residence of First Listed Plaintiff
 (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

ALLIANCE FUNDING, LLC
BROWARD

County of Residence of First Listed Defendant
 (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorney's (Firm Name, Address, and Telephone Number)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

NOV 28 2011

3-11CV3275-M

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only) (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

- PTF DEF
- ☒ 1 ☐ 1 Citizen of This State
- ☐ 2 ☐ 2 Citizen of Another State
- ☐ 3 ☐ 3 Citizen or Subject of a Foreign Country
- ☐ 4 ☐ 4 Incorporated or Principal Place of Business In This State
- ☐ 5 ☒ 5 Incorporated and Principal Place of Business In Another State
- ☐ 6 ☐ 6 Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|--|--|--|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury | PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes |

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):

15 USC 1692 et seq. 47 USC 227 et seq.
VIOLATION OF DEBT COLLECTION PRACTICES

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) (See instructions) PENDING OR CLOSED:

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____